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Agent for BARREL SPRINGS PROPERTIES,  
8 LLC

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 Coordination Proceeding  
Special Title (Rule 3.550 (fka Rule 1550(b))

Judicial Council Coordination Proceeding No.  
4408

12 **ANTELOPE VALLEY GROUNDWATER**  
13 **CASES**

Santa Clara Case No. 2005-1-CV-049053  
Los Angeles Superior Court  
Case Nos. BC364553 and BC391869

14 Including Consolidated Actions:

Assigned to the Hon. Jack Komar  
Santa Clara Superior Court

15 REBECCA LEE WILLIS, on behalf of herself  
and all others similarly situated,

16 Plaintiff,

17 v.

18 LOS ANGELES COUNTY WATERWORKS  
19 DISTRICT NO. 40, et al.

20 Defendants

REPLY IN SUPPORT OF MOTION BY THE  
PEOPLE CONCERN, INC. AS AGENT FOR  
SMALL PUMPER CLASS MEMBER  
BARREL SPRINGS PROPERTIES, LLC  
FOR ACTION AND IMPLEMENTATION  
OF WATERMASTER ENGINEER  
RECOMMENDATION OF APPROVAL OF  
BARREL SPRINGS PROPERTIES, LLC'S  
SEPTEMBER 30, 2022 NEW PRODUCTION  
APPLICATION

21 RICHARD A. WOOD, an individual, on behalf  
of himself and all others similarly situated,

22 Plaintiff,

23 v.

24 LOS ANGELES COUNTY WATERWORKS  
25 DISTRICT NO. 40, et al.

26 Defendants.

27 **AND RELATED ACTIONS**

1 **I. INTRODUCTION**

2 The Watermaster Engineer found that all requirements for New Production under the  
3 Physical Solution had been met and recommended the approval of The People Concern's New  
4 Production Application. Watermaster Board member Kathy MacLaren refused to give any reason  
5 for her sole "no" vote that resulted in the Application being denied, leaving this Court with no  
6 substantial evidence in the record of any basis for the denial.

7 Now, in opposition to The People Concern's motion, the Watermaster proffers a host of  
8 post-hoc rationalizations to support its denial. None of those rationalizations should be considered  
9 because they were not a part of the proceedings or the record leading up to the decision. Rather,  
10 the Court's role at this stage of the proceedings is to simply review the Watermaster Engineer's  
11 recommendation for action and implementation. Because the Watermaster Engineer found that all  
12 requirements for New Production under the Physical Solution had been met and recommended  
13 approval, this Court should adopt the Engineer's report and recommendation and approve the  
14 Application.

15 **II. ARGUMENT**

16 **A. The Court should approve the New Production Application notwithstanding**  
17 **the Watermaster's post-hoc rationalizations for the board's denial.**

18 The Watermaster admits that the sole board member who voted against approval, Director  
19 Kathy MacLaren, did not articulate any reason for denying the application at the public meeting.  
20 (Opp. 5:21-22.) Notwithstanding, the Watermaster takes pains to try and justify the "no" vote with  
21 post-hoc rationalizations including blaming The People Concern for not providing more  
22 information in support of its Application *after* the vote had already taken place. (See Opp. pp.  
23 5:23-10:21.) None of the after-the-fact justifications provided bear any weight on this Court's *de*  
24 *novo* review of the Watermaster Engineer's recommendation.

25 The People Concern presented the Watermaster Engineer's recommendations to this Court  
26 for action and implementation pursuant to paragraph 18.6 of the final Judgment and Physical  
27 Solution. (Notice of Mot. p. 2:3-6.) Paragraph 18.6 provides as follows:  
28

1                   **18.6 Recommendations of the Watermaster Engineer.** Unless otherwise  
2 determined pursuant to Paragraph 18.1.2.2, all recommendations of the Watermaster  
3 Engineer must be approved by unanimous vote of all members of the Watermaster.  
4 *If there is not [a] unanimous vote among Watermaster members, Watermaster  
5 Engineer recommendations must be presented to the Court for action and  
6 implementation.*

7 (Compendium Exh. 13, sub-Exh. A, p. 56, italics added.)<sup>1</sup> Because there was not a unanimous  
8 vote among Watermaster members, this Court need only consider the Watermaster Engineer's  
9 recommendation to determine whether The People Concern's Application should be approved and  
10 implemented. (*Ibid.*)

11           As the People Concern explained in its affirmative motion, the Watermaster Engineer  
12 determined that no material injury would result from The People Concern's proposed production  
13 from the aquifer. (Mot. pp. 7:1-8:3.) When the Watermaster Engineer presented her  
14 recommendation that the Board approve the new production well, she also found that the People  
15 Concern had agreed to purchase replacement water and that all of the conditions for new  
16 production were met under the Judgment and the Antelope Valley Watermaster Rules and  
17 Regulations. (Larson Decl. ¶ 14.) Critically, the Watermaster Engineer did not recommend that the  
18 Watermaster deny the application. (Compendium Exh. 5, *passim.*) Further, the minutes of the  
19 meeting at which the Application was denied reflect that the Board discussed with its General  
20 Counsel in open session that "the amount of water that the well could potentially yield *is not a  
21 concern regarding the material injury to the surrounding area.*" (Compendium Exh. 3, Resolution  
22 R-23-04, emphasis added.)

23           Accordingly, the Court must now act on the Watermaster Engineer's recommendation. On  
24 *de novo* review, the Court should consider the same resolution that was presented to the Board,  
25 and approve the Application pursuant to the Watermaster Engineer's recommendation and the  
26 conditions to which the People Concern agreed. Those conditions are reflected in the resolution  
27 presented to the Watermaster Board. (*Ibid.*)

28 <sup>1</sup> Paragraph 18.1.2.2 allows for certain types of Watermaster decisions to only require a simple  
majority vote—it is not at issue here because the approval of New Production Applications  
requires a unanimous vote.

1           Alternatively, if the Court decides to look beyond the Watermaster Engineer’s  
2 recommendation of approval and consider Director MacLaren’s “no” vote, it should conclude that  
3 her vote was arbitrary and capricious. When courts review discretionary decisions, they must  
4 ensure that the public agency adequately considered all relevant factors and demonstrated a  
5 rational connection between those factors, the choice made, and the purposes of the governing  
6 law—here the Judgment and Physical Solution Adjudicating Antelope Valley Groundwater Basin.  
7 (*E.g. O.W.L. Foundation v. City of Rohnert Park* (2008) 168 Cal.App.4th 568, 585-586  
8 [discussing similar review for abuse of discretion in mandamus actions] (*O.W.L.*.) Here, the Court  
9 is hamstrung by Director MacLaren’s “no” vote that resulted in the denial of the Application  
10 because she refused to give any reason as to why she voted in the negative. Therefore, the  
11 Watermaster has failed to demonstrate a rational connection between the factors considered, the  
12 choice made, and the purpose of the governing law *because no reason was given*. (See *id.*)

13           In addition, many the Watermaster's post-hoc representations in the opposition that *could*  
14 *have been bases* for denial are false. For example, the Watermaster argues that Barrel Springs’  
15 application was the largest new production application that has come before the board. First, the  
16 size of the production request should be irrelevant if no adverse impact on the basin is possible.  
17 But even if it were relevant, the statement itself is not true: larger new production applications  
18 were approved both before and after the Barrel Springs hearing. Documents obtained from the  
19 Watermaster's website show that the Watermaster approved a New Production Application for 300  
20 AF to Long Valley Road, L.P. on February 23, 2023, just two months before the Barrel Springs  
21 application hearing. (See Compendium Exh. 5; see also Request for Judicial Notice (“RJN”) Exh.  
22 A [Watermaster Resolution No. R-23-06].) Two months after the Barrel Springs application  
23 hearing, the Watermaster Board approved a New Production Application for 215 AF to Ron  
24 Banuk on June 28, 2023. (RJN Exh. B [Watermaster Resolution No. R-23-50].) Thus, the  
25 Watermaster's represent to this Court that it’s denial of The People Concern’s application  
26 “constitutes the largest single application for New Production that has been presented to the  
27 Watermaster to date” is plainly untrue. (Opp. p. 12: 12-13.)

28           When viewed in context of the other applications that the Watermaster has considered, it

1 becomes clear that the Application is not extraordinary from a volume standpoint, that the  
2 Watermaster's own engineering expert determined that there would be no material injury (the  
3 fundamental issue in determining the sufficiency of a new production application), that there are  
4 no substantial bases in the record to deny the application, and that there are likely more obvious—  
5 and perhaps nefarious—reasons for denying the application such as Director MacLaren's desire to  
6 keep an affordable housing project outside of her “backyard.”

7       The post-hoc rationalizations given in opposition to this motion should not be considered  
8 because they came *after* the decision at issue. On this record, the only conclusion that can be  
9 drawn is that Director’s MacLaren’s “no” vote was not based on any substantial evidence in the  
10 record, rendering the Watermaster’s denial of the application arbitrary and capricious. Therefore,  
11 to the extent necessary, the Court must conclude that the Watermaster abused its discretion in  
12 denying the application.

### 13 **III. CONCLUSION**

14       As explained in The People Concern’s affirmative motion, its New Production Application  
15 should have been approved. The Watermaster Engineer made the necessary findings supporting  
16 approval. Because the Watermaster’s vote on the resolution approving the Application was less  
17 than unanimous, this Court must consider the Watermaster Engineer’s recommendation *de novo*,  
18 take action, and should implement the recommendation.

19       Accordingly, The People Concern requests this Court approve The People Concern’s New  
20 Production Application and enter an order accordingly.

21 DATED: August 17, 2023

HANSON BRIDGETT LLP

22  
23 By: s/ David C. Casarrubias  
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LLC

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**STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA**

On August 17, 2023, I served true copies of the following document(s) described as:  
REPLY IN SUPPORT OF MOTION BY THE PEOPLE CONCERN, INC. AS AGENT FOR  
SMALL PUMPER CLASS MEMBER BARREL SPRINGS PROPERTIES, LLC FOR ACTION  
AND IMPLEMENTATION OF WATERMASTER ENGINEER RECOMMENDATION OF  
APPROVAL OF BARREL SPRINGS PROPERTIES, LLC'S SEPTEMBER 30, 2022 NEW  
PRODUCTION APPLICATION on the interested parties in this action as follows:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Debbie Estebanez